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ONE HUNDRED AND SIXTH LEGISLATIVE DAY
MONDAY, APRIL 21, 2003

Senate Chamber

President Risch called the Senate to order at 10:30 a.m.

Roll call showed all members present except Senators Burtenshaw and Noble, absent and formally excused by the Chair; and Senators Burkett, Calabretta, Malepeai, Marley, Schroeder, Stegner, Stennett, and Sweet, absent and excused.

Prayer was offered by Chaplain Gene Arnold.

The Pledge of Allegiance was led by Kathryn Neal, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

Senators Calabretta, Malepeai, Schroeder, Stegner, and Stennett were recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of April 18, 2003, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senator Burkett was recorded present at this order of business.

April 18, 2003

The JUDICIARY AND RULES Committee reports that **S 1180** has been correctly enrolled.

DARRINGTON, Chairman

The President signed Enrolled **S 1180** and ordered it transmitted to the House for the signature of the Speaker.

April 18, 2003

The JUDICIARY AND RULES Committee reports that Enrolled **S 1164**, **S 1175**, and **S 1178** were delivered to the Office of the Governor at 10:55 a.m., April 18, 2003.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

April 18, 2003

The FINANCE Committee reports out **H 409**, **H 410**, **H 411**, **H 412**, **H 413**, **H 414**, **H 418**, and **H 419** with the recommendation that they do pass.

CAMERON, Chairman

H 409, **H 410**, **H 411**, **H 412**, **H 413**, **H 414**, **H 418**, and **H 419** were filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

April 18, 2003

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that I have signed today and am transmitting to the Secretary of State the following Senate Bill, to wit:

S 1051, as amended in the House

Sincerely,
/s/ Dirk Kempthorne
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

Senator Marley was recorded present at this order of business.

S 1192, by Finance Committee, was read the second time at length and filed for third reading.

H 415, as amended in the Senate, by Ways and Means Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

On request by Senator Davis, granted by unanimous consent, **H 264** and **H 317**, having been held, retained their place on the Third Reading Calendar for Tuesday, April 22, 2003.

S 1190 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Cameron arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Werk, Williams. Total - 32.

NAYS--None.

Absent and excused--Burtenshaw, Noble, Sweet. Total - 3.

Total - 35.

Whereupon the President declared **S 1190** passed, title was approved, and the bill ordered transmitted to the House.

S 1191 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Calabretta arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Werk, Williams. Total - 31.

NAYS--None.

Absent and excused--Burtenshaw, Geddes, Noble, Sweet. Total - 4.

Total - 35.

Whereupon the President declared **S 1191** passed, title was approved, and the bill ordered transmitted to the House.

The Senate advanced to the Fourteenth Order of Business.

General Calendar

Senator Sweet was recorded present at this order of business.

The President declared the Senate resolved into the Committee of the Whole and called Senator Stegner to the Chair to preside during the sitting of the Committee of the Whole.

Following the adjournment of the Committee of the Whole, the President called the Senate to order.

Report of the Committee of the Whole

Senator Stegner, Chairman of the Committee of the Whole, reported out **H 383** without recommendation, amended as follows.

SENATE AMENDMENT TO H 383

AMENDMENT TO SECTION 1

On page 1 of the printed bill, delete lines 11 through 41 and insert:

"29-110. LIMITATIONS ON RIGHT TO SUE -- FRANCHISE AGREEMENT. (1) Every stipulation or condition in a contract, by which any party thereto is restricted from enforcing his rights under the contract by the usual proceedings in the ordinary tribunals, or which limits the time within which he may thus enforce his rights, is void.

(2) Any condition, stipulation or provision in a franchise agreement is void to the extent it purports to waive, or has the effect of waiving venue or jurisdiction of the state of Idaho's court system. Any condition, stipulation or provision in a franchise agreement, to the extent it purports to assert, or has the effect of asserting the choice of law is enforceable. This subsection shall apply to any franchise agreement entered into or renewed on or after July 1, 2003, by any person who at the time of entering into or renewing such franchise agreement was a resident of this state or incorporated or organized under the laws of this state.

(3) As used in this section "franchise agreement" means a written contract or agreement by which:

(a) A person ("franchisee") is granted the right to engage in the business of offering, selling or distributing goods or services under a marketing plan or system prescribed in substantial part by a third party ("franchisor");

(b) The operation of the franchisee's business pursuant to such plan or system is substantially associated with the franchisor's trademark, service mark, trade name, logotype, advertising or other commercial symbol designating the franchisor of such plan or system; and

(c) The franchisee is required to pay the franchisor one thousand dollars (\$1,000) or more for the right to transact business pursuant to the plan or system. Such payments shall not include amounts paid:

(i) As a reasonable service charge to the issuer of a credit card by an establishment accepting or honoring the credit card; or

(ii) For the purchase of goods at a bona fide wholesale price."

CORRECTION TO TITLE

On page 1 of the printed bill, delete lines 4 through 7 and insert: "MENT IS VOID UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE THAT ANY CONDITION, STIPULATION OR PROVISION IN A FRANCHISE AGREEMENT, TO THE EXTENT IT PURPORTS TO ASSERT, OR HAS THE EFFECT OF ASSERTING THE CHOICE OF LAW IS ENFORCEABLE, TO PROVIDE APPLICATION TO CERTAIN FRANCHISE AGREEMENTS AND TO DEFINE THE TERM "FRANCHISE AGREEMENT.".

The Committee also has **S 1172** and **H 136**, as amended in the Senate, under consideration, reports progress, and begs leave to sit again.

STEGNER, Chairman

On motion by Senator Stegner, seconded by Senator Stennett, the report was adopted by voice vote.

H 383, as amended in the Senate, was filed for first reading as amended and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 11:50 a.m. until the hour of 10:30 a.m., Tuesday, April 22, 2003.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary